

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JANE DOE, et al.

Plaintiffs

v.

SCHUYLKILL COUNTY
COURTHOUSE, et al.,
Defendants

No. 3:21-cv-00477-MEM

Jury Trial Demanded.

**DEFENDANTS', "SCHUYLKILL COUNTY COURTHOUSE", GARY
BENDER AND GLENN ROTH,
MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT**

Defendants, "Schuylkill County Courthouse", Gary Bender and Glenn Roth, move this Court pursuant to Federal Rules of Civil Procedure 8, 10 and 12(b)(6) to dismiss the Amended Complaint filed by Plaintiff in the above-captioned matter. For the reasons set forth below and within moving Defendants' brief in support, which will be filed pursuant to Local Rule 7.5, moving Defendants respectfully ask this Court to dismiss the amended complaint with prejudice, tax all costs and attorneys' fees to plaintiffs, and provide all other just and proper relief.

Defendants, in support thereof, aver the following:

1. Plaintiffs have filed this matter under Title VII, the Pennsylvania Human Relations Act and various Pennsylvania common law claims.

2. Plaintiffs filed their original complaint (Doc 1), which four anonymous Schuylkill County employees (stylized as “Jane Doe 1-4”) asserted various counts of violations of Title VII *inter alia*, against four Defendants named within the caption, namely “Schuylkill County Courthouse”, Gary Bender, Glenn Roth and George Halcovage.
3. All Defendants filed Motions to Dismiss to the original complaint (Doc 1); however, the parties stipulated to the filing of an Amended Complaint by April 16, 2021 (Doc 18).
4. Plaintiffs have amended their complaint (Doc 20) and asserted substantially similar claims, again using pseudonyms.
5. Defendants, Courthouse, Bender and Roth move this Honorable Court to dismiss the amended complaint (Doc 20) for the reasons stated hereunder as well as the reasons set forth in the accompanying brief, which will be filed pursuant to Local Rule 7.5.
6. Plaintiffs’ case must be dismissed pursuant to Fed. R. Civ.P. 10(a) for failure to identify the Plaintiff. Plaintiffs did not seek prior approval of court for a Jane Doe designation.

7. Claims against Defendants Roth and Bender in their official capacity should be stricken because they are duplicative with the claims against Schuylkill County.¹
8. Plaintiffs fail to state causes of action for intentional torts under common law.
9. Plaintiffs fail to properly state claims upon which relief can be granted under Fed. R. Civ. P 12(b)(6) regarding their Title VII claims for discrimination, hostile work environment and retaliation (Counts 1-3) as well as similar state law claims (Counts 4-7).
10. Plaintiffs have not yet exhausted their administrative remedies pursuant to the Pennsylvania Human Relations Act.
11. Defendants Bender and Roth should be dismissed regarding state claims for discrimination (Counts 5 and 7) as there is no individual liability for discrimination under the PHRA.
12. Defendants Schuylkill County Courthouse, Bender and Roth should be dismissed regarding all counts related to claims under the PHRA (Counts 5-7) as Plaintiffs have failed to set forth any legal liability for these claims even under the liberal Twombly/Iqbal construct.

¹ Within the caption, Defendant is listed as “Schuylkill County Courthouse”; however, within the body of the complaint, Defendant is listed as “Schuylkill County.”

13. Further, Defendants, “Courthouse”, Bender and Roth seek to strike any demand for punitive and liquidated damages within Plaintiffs’ omnibus prayer for relief as set forth more fully in the accompanying brief.

14. Defendants reserve the right to present additional arguments for Motion to Dismiss in its brief in support of Motion to Dismiss to be filed pursuant to Local Rule 7.5.

Respectfully submitted,

THOMAS, THOMAS & HAFFER LLP

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CERTIFICATE OF CONCURRENCE

In accordance with Local Rule 7.1, moving Defendants have sought concurrence from counsel for all parties with regard to this motion to dismiss. Counsel for Plaintiffs does not concur. Counsel for Defendant Halcovage does concur in this motion.

THOMAS, THOMAS & HAFFER LLP

By: /s/ Christopher L. Scott

CERTIFICATE OF SERVICE

I certify that on this 30th day of April 2021, the foregoing document was served via ECF, upon all counsel.

THOMAS, THOMAS & HAFFER LLP

Date: 4/30/21

By: /s/ Christopher L. Scott